

DONGELL LAWRENCE FINNEY LLP  
RICHARD A. DONGELL (SBN 128083)  
rdongell@dlflawyers.com  
THOMAS F. VANDENBURG (SBN 163446)  
tvandenburg@dlflawyers.com  
IAN P. CULVER (SBN 245106)  
iculver@dlflawyers.com  
707 Wilshire Boulevard, 45th Floor  
Los Angeles, CA 90017-3609  
Telephone: (213) 943-6100  
Facsimile: (213) 943-6101

Attorneys for Plaintiff and Counter-Defendant  
Wells Fargo Bank, N.A., as Trustee for the Clara Poppic Trust

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WELLS FARGO BANK, N.A., as  
TRUSTEE for the CLARA POPPIK  
TRUST,

Case No.: CV 08 2561 SBA

Plaintiff,

**ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
LEAVE TO FILE A SECOND  
AMENDED COMPLAINT**

V.

KENNETH G. RENZ; ESTATE OF JACKSON R. DENNISON; ESTATE OF WILEY UMSTEAD; KAZUKO UMSTEAD; WON JAE YI aka MICHAEL YI; NAN Y. PARK; GUAN HUANG; YING ZHANG and SUI SONG.

New Date: November 4, 2008  
Time: 1:00 p.m.  
Location: Courtroom 3

## Defendants.

## AND RELATED COUNTER-CLAIM

The motion of Plaintiff Wells Fargo Bank, N.A., as Trustee of the Clara Poppic Trust (“Plaintiff”) for leave to file a second amended complaint pursuant to Fed. R. Civ. P. 15(a)(2) came on for hearing before this Court, Thomas F. Vandenburg, Esq. appearing for Plaintiff.

1           Leave to amend should freely be granted when justice so requires.  
2 Fed. R. Civ. P. 15(a)(2). As Plaintiff's ninety-day notice and waiting period has  
3 expired, addition of this claim is proper. *Zands v. Nelson*, 779 F.Supp. 1254, 1259  
4 (S.D. Cal. 1991). The support for the addition of the breach of contract and  
5 contractual indemnity claims is demonstrated in *Universal Paragon Corp. v.*  
6 *Ingersoll-Rand Co.*, 2007 U.S. Dist. LEXIS 14530, 27 (N.D. Cal. Feb. 13, 2007).  
7 As a party may only seek CERCLA contribution from other liable parties after  
8 having been sued under CERCLA § 106 or § 107(a), the motion to amend to add a  
9 CERCLA § 113(f) claim is also proper. *Cooper Indus., Inc. v. Aviall Servs., Inc.*,  
10 543 U.S. 157, 161 (2004).

11           After consideration of the briefs and arguments of counsel, and all  
12 other matters presented to the Court,

13 **IT IS HEREBY ORDERED:**

14           1. Plaintiff's motion for leave to file a second amended complaint is  
15           **GRANTED**;  
16           2. The already named and appearing defendants, KENNETH G. RENZ,  
17           ESTATE OF JACKSON R. DENNISON, KAZUKO UMSTEAD,  
18           GUAN HUANG, and WON JAE YI shall be required to respond to  
19           the Second Amended Complaint within twenty days of the date the  
20           Second Amended Complaint is filed.

21  
22 DATED: 11/7/08

  
23           \_\_\_\_\_  
24           The Honorable Saundra B. Armstrong  
25  
26  
27  
28